

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ARTHUR HERRING, III

Plaintiff

V.

**VINCENT MARTELLO, MATTHEW
KRONER, CLIFFORD BARCLIFF,
MONTGOMERY COUNTY COMMUNITY
COLLEGE, WHITPAIN TOWNSHIP,
JOSEPH STEMPLE, WILLIAM BUNTING
and GEORGETTE JACOB.**

Defendants

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**Civil Action
02-CV-02811**

**DEFENDANTS BARCLIFF AND MONTGOMERY COUNTY COMMUNITY
COLLEGE’S PETITION FOR LEAVE OF COURT TO EXTEND THEIR
MEMORANDUM OF LAW IN SUPPORT OF THEIR MOTION FOR SUMMARY
JUDGMENT**

Defendants Clifford Barcliff (hereinafter, “Barcliff”), and Montgomery County Community College, (hereinafter, “the Community College”) by and through their undersigned counsel, pursuant to this Honorable Court’s Rule 16 Status Conference Order dated March 20, 2003, hereby Petition this Honorable Court to grant Defendants’ Leave of Court to file a Memorandum of Law in support of their Motion for Summary Judgment that exceeds twenty five (25) pages. In support of this Petition, Barcliff and the Community College aver the following:

1. Plaintiff Arthur Herring filed a nine count Complaint against six individual Defendants, the Community College and Whitpain Township.
2. After a ruling on the Motions to Dismiss, the following counts remain viable against either the Community College, Clifford Barcliff or both:

- a. Count I: a claim of failure to train and or supervise pursuant to 42 U.S.C. § 1983;
 - b. Count IV: a claim of violations of the Fourth Amendment to the United States Constitution pursuant to 42 U.S.C. § 1983;
 - c. Count V: a claim of federal malicious prosecution pursuant to 42 U.S.C. § 1983;
 - d. Count VII: a claim of a violation of Article I, Section 8 of the Pennsylvania Constitution;
 - e. Count VIII: a claim of false arrest (presumably pursuant to state law as no federal law is cited);
 - f. Count IX: a claim of malicious prosecution (presumably under state law as no federal law is cited and Plaintiff already made a claim of malicious prosecution under federal law in Count V).
3. The six remaining claims against either Barcliff, the Community College or both involve Federal Constitutional issues, State Constitutional issues, individual and *respondeat superior* liability under § 1983, and various immunities under common law and the Political Subdivision Tort Claims Act.
4. Seven depositions have been taken and Plaintiff's requests for written discovery, i.e. Requests for Admission and Interrogatories, have been answered.
5. Because of the complicated Constitutional and other legal issues presented by Plaintiff in his Complaint against both the Community College and

Barcliff, it will be impossible to condense to twenty-five pages the necessary legal arguments to effectively move for summary judgment and adequately represent our clients.

6. Motions for Summary Judgment were originally due July 15, 2003. However, the Court extended this deadline to August 1, 2003 per this Court's Order of July 11, 2003.

WHEREFORE, the Community College and Barcliff respectfully request that this Honorable Court grant them leave of Court to extend the twenty-five page limit on the brief that will be filed in support of their Motion for Summary Judgment.

Respectfully submitted,
LEVIN LEGAL GROUP, P.C.

Andria B. Saia, Esquire
Stacy G. Smith, Esquire
1402 Masons Mill Business Park
1800 Byberry Road
Huntingdon Valley, PA 19006
(215) 938-6378.

Dated: July 24, 2003

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ARTHUR HERRING, III

Plaintiff

vi.

**VINCENT MARTELLO, MATTHEW
KRONER, CLIFFORD BARCLIFF,
MONTGOMERY COUNTY COMMUNITY
COLLEGE, WHITPAIN TOWNSHIP,
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Defendants

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**Civil Action
02-CV-02811**

ORDER

AND NOW, this day of , 2003, upon consideration of the Defendant's Motion for Leave of Court to Extend their Memorandum of Law in Support of their Motion for Summary Judgment, the Motion is hereby GRANTED. The Community College and Barcliff may submit a Memorandum of Law in Support of their Motion for Summary Judgment which is in excess of twenty-five pages.

BY THE COURT:

The Honorable James Knoll Gardner
United States District Judge

CERTIFICATE OF SERVICE

I, Stacy G. Smith, hereby certify that I am, this 24th day of July, 2003 serving the foregoing Motion for Leave upon the person(s) and in the manner indicated below.

Service by first class mail addressed as follows:

Robert J. Magee, Esquire
WORTH, MAGEE & FISHER, P.C.
515 Linden Street
Third Floor
Allentown, PA 18101

BY: _____
Stacy G. Smith